SUPREME COURT, U. S.

MAY 2

MICHAEL RODAK, JR.

# In the Supreme Court of the United States

**OCTOBER TERM, 1973**

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**No. 73-1311**

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**MICHAEL PAPADOPOULOS,**

**Petitioner,**

**v.**

**OREGON STATE BOARD OF HIGHER EDUCATION,**

**Respondent.**

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**On Petition for a Writ of Certiorari to the Court of Appeals of the State of Oregon**

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## BRIEF FOR RESPONDENT IN OPPOSITION

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## BRIEF FOR RESPONDENT IN OPPOSITION

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### OPINION BELOW

Petitioner's statement is accepted.

### JURISDICTION

Petitioner's statement is accepted.

### QUESTION PRESENTED

Does a public employe have a constitutional right to a pre-termination adversary hearing?

### CONSTITUTIONAL PROVISION INVOLVED

The Fourteenth Amendment to the United States Constitution is involved in this case.

## STATEMENT OF THE CASE

Petitioner's statement of the case is simply a re-argument of the factual questions presented at his post termination administrative and judicial hearings. The factual questions involved have been resolved contrary to the position of the petitioner.

## REASONS FOR DENYING THE WRIT

A. The opinion of the Oregon Court of Appeals was a proper application of this court's holding in *Board of Regents v. Roth,* 408 US 574, 92 S Ct 2701, 33 L Ed2d 548 (1972); *Perry v. Sinderman,* 408 US 593, 92 S Ct 2694, 33 L Ed2d 470 (1972).

The Oregon Court of Appeals properly held that if a property or liberty interest is established by statute or contract due process requires an opportunity to be heard. In the instant case the opportunity to establish both the property and liberty interests were afforded the petitioner and it was determined that no liberty interest was invaded and the only property interest was in proper notification of non-renewal.

B. Due process does not require a pre-termination hearing prior to the discharge of a public employe.

Petitioner has had post-termination hearings on the questions of his discharge both before the Department of Higher Education and the Circuit Court of the State of Oregon. His basic argument is that due process required that he be given a pre-termination hearing. This contention was decided against the petitioner by this

court in *Arnett v. Kennedy*, — US ——, — S Ct ——, —— LEd2d 548, 42 USLW 4513 (April 16, 1974).

## CONCLUSION

For the above reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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April, 1974